



Supreme Court of Arkansas

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April 18, 2018

Independent Citizens Commission
State Capitol Building
Little Rock, AR 72201

Re: Request from the Arkansas Supreme Court

Dear Commissioners:

I write to you in support of the proposal from Judge Branton and the Arkansas Judicial Council for a 3 percent Cost of Living Adjustment for members of the judiciary. I also write to call your attention to an imbalance that exists in the compensation structure.

Historically there has been a substantial separation between the salaries of the circuit judges, the court of appeals judges, and the supreme court justices. Imagine, if you will, the structure like a pyramid with the salaries of the 121 circuit judges as a broad base and then a tapered-up second tier of fewer judges, 12, on the Arkansas Court of Appeals, with a greater level of responsibility and general appellate review over the circuit courts, and with a higher salary. Finally, the top tier of the 7 justices on the Arkansas Supreme Court, with superintending control over all other courts, final appellate authority over all lower courts, responsibility for all life sentence and death penalty appeals, as well as all constitutional issues and all rulemaking authority, and a correspondingly higher salary.

The pyramid structure made sense with the salary increasing from bottom to top as the level of responsibility increased. However, in recent years, the salary schedule of the judiciary has become compressed in a way that provides little separation between the pay of the general jurisdiction trial judges, the court of appeals judges, and the supreme court justices, despite the fact that each higher level comes with significantly more responsibility and territory to serve. This compression has shifted the compensation structure from that of a pyramid to one more resembling a column.

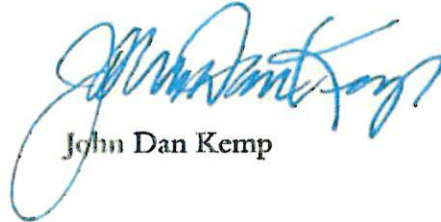
Circuit judges serve in districts that range from one to six counties. Court of appeals judges serve in districts that range from three to eighteen counties. Supreme court justices serve all 75 counties because they are elected statewide. However, the salary of a circuit judge is 99.07 percent of the salary of a court of appeals judge and 96.1 percent of the salary of an associate justice on the supreme court. The salary of a court of appeals judge is 97 percent of the salary of an associate justice.

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To further compound the effects of the compressed salary schedule, while circuit judges and court of appeals judges receive tax-free reimbursement for mileage, supreme court justices receive no mileage allowance. (I.R.S. rules provide that any such allowance for mileage for supreme court justices would be taxable because there is no district-residency requirement). The effect of this different treatment for mileage is that multiple court of appeals judges actually receive higher compensation than associate justices, and the potential exists for a circuit judge with an active docket in a large district to receive more compensation than an associate justice.

So, while I support the 3 percent adjustment recommended by the Arkansas Judicial Council, I hope that you will share my concern about the overall structural imbalance. I am not proposing a specific remedy to this problem; rather, I am deferring to the wisdom of the commissioners to determine whether any potential solution should come in the form of additional salary, a mileage and/or per-diem allowance, or some combination of those compensation components. I appreciate your time and your consideration.

Respectfully,

A handwritten signature in blue ink, appearing to read "John Dan Kemp", written in a cursive style.

John Dan Kemp

cc: All Justices